



Asthma and Allergy
Foundation of America®

SOUTHERN CALIFORNIA CHAPTER

06-1-6

Melissa Shepman

January 25, 2006

Chairman Sawyer & Members of the CARB

CARB

1001 I Street, 23rd Floor, Sacramento, CA 95814

Re: The Air Resources Board/Railroad Memorandum of Understanding-

(To Be Presented to the Board on January 27, 2006)

Dear Chairman Sawyer and Members of the Board:

As a public health agency, the Asthma & Allergy Foundation of America advocates for all who suffer from asthma and allergies in California. We submit these comments in response to the Memorandum of Understanding between the California Air Resources Board (CARB), and the Union Pacific Railroad Company and BNSF Railway Company.

We are not in favor of what appears to be ARB's staff reliance on voluntary MOU's. Instead, we support mandatory regulations, which would curb emissions and benefit millions of people who suffer and who will suffer from the MOU's relaxed restrictions.

There are a number of deficiencies in the MOU that have not been clearly defined by CARB staff or the Railroads. The language used in the MOU is vague, including the provisions in the Idling Reduction Program; Early Introduction of Low Sulfur Diesel; Visible Emission Reduction and Repair Program; Early Review of Impacts of Air Emissions from Designated Yards; Assessment of Toxic Air Contaminants from Designated California Rail Yards; Evaluation of Other Medium-Term and Longer-Term Alternatives and Enforcement and Penalties. The language does not go far enough to provide real requirements, time restrictions or risk analysis.

The MOU was negotiated without input from the public, other impacted government agencies, or even ARB's own governing board, despite the fact that it significantly impacted the health of communities throughout the state, as well as the enforceability of critical air quality measures. ARB's failure to provide for a public process before it entered into the MOU was poor public policy. Due to the actions already taken by ARB, its attempt to rectify the lack of public process for the MOU, was too little too late,

Along with poor public policy, the MOU contains a clause which undermines the MOU. In particular, the MOU allows the Railroads to terminate the MOU if any agency or political subdivision of the state "adopts or attempts to enforce any requirement addressing the goal of any Program Element set forth in this agreement." If adopted, this clause will create an adverse effect on any efforts by the legislature, ARB itself, local air districts, cities, counties, and other governmental entities such as California ports to reduce toxic emissions from rail operations. This clause will destabilize local efforts to address the ever present regional air-pollution problems and exacerbate chronic diseases like asthma. Therefore, we urge the Board to rescind the MOU.